

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Martha Jane Degarmo

Case No. 07-81668

Chapter 13

Social Security No. xxx-xx-3735

Address: Post Office Box 1713, Carthage, NC 28327-1713

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on December 27, 2007, with the Chapter 13 plan being subsequently confirmed on March 20, 2008.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$1,302.00 per month.

To: \$1,302.00 per month through March 2010, followed thereafter by \$1,039.00 per month, starting in October 2010.
3. In addition, the Debtor requests a “waiver” to move her Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtor agrees that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtor's case may be dismissed without further hearing by the Court. The Debtor agrees that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
 - a. The Debtor has been struggling with her Chapter 13 payment for the last year, following the death of her fiancé, with whom she was living and sharing expenses.
5. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Change in dividend to unsecured creditors to 0%.

- b. Change in length of plan.
- c. Objection to Claims have both resulted in fewer claims and allowance of mortgage payments at lower amounts.
- d. Following the review of a response to a Qualified Written Request, the Debtor anticipates further reduction in the mortgage arrearage.
- e. Loss of disposable income.

Appended Application for an Additional Attorney Fee

- 6. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: September 22, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz
Edward Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Martha Jane Degarmo

Case No. 07-81668

Chapter 13

Social Security No. xxx-xx-3735

Address: Post Office Box 1713, Carthage, NC 28327-1713

Debtor

CERTIFICATE OF SERVICE

I, Renee Nolte, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on September 23, 2010, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Martha Jane Degarmo
Post Office Box 1713,
Carthage, NC 28327-1713

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Renee Nolte
Renee Nolte